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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35323-2023 (O&M)

Date of decision: 27.07.2023

Salim @ Saleem

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Lakshay Bector, Advocate
for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner, 29-year old, seeks bail in case bearing FIR No.19 dated 15.03.2023, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station, City Raikot, District Ludhiana.

2. Petitioner Salim @ Saleem was apprehended on 15.03.2023 by a police party on a secret information. From his possession, 290 loose Tramadol Hydrochloride tablets were recovered. He was carrying those without any permit or licence. FIR was registered. Petitioner was taken into custody and investigation was carried out. Per FSL report received later on, average weight per tablet was 381 per mg and salt was confirmed as Tramadol Hydrochloride.

3. Learned counsel for the petitioner contends that petitioner has been falsely implicated in the present case. He submits that no recovery was effected from conscious possession of the petitioner. Alleged recovery has been planted upon the petitioner. No independent witness was joined by the police officials. He further submits that alleged recovery effected from the petitioner was 290 tablets x 371 per mg divided by 1000, which comes to 110 grams and falls under the non-commercial quantity.

3.1 He further submits that petitioner is in custody since 15.03.2023 and challan has already been presented before the competent Court. No prosecution witness

4. On the other hand, learned State counsel, on instructions from ASI Ravinder Kumar, opposes the bail petition. She submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. She, however, admits that alleged recovery is non-commercial in nature and that no other case is pending against him.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Challan is stated to have been presented on 12.05.2023 and charges are yet to be framed. There are total 9 witnesses cited by the prosecution. Since the investigation is complete *qua* petitioner, he is thus not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Commencement/conclusion of the trial is likely to take quite sometime. Whereas petitioner has already been languishing in jail for more than 04months in preventive custody, he being behind bars since 15.03.2022. Alleged recovery falls under non-commercial quantity.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no documentary evidence and it is more in the nature of FSL report *qua* contraband, already filed in the Court below to which accused has no access. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, they are unlikely to be influenced, even if there is any such apprehension by the prosecution.

8. Petitioner is stated to be 29-year old family man and only bread winner of his family who has added responsibility of his two minor children, wife and elderly parents, who are living in penury in his absence. Being a family man with clean antecedents, it is unlikely that he is flight risk or will flee from the trial proceedings. Offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to the society at large by committing any violent crime.

9. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
11. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned Trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

27.07.2023
vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No